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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ARVIND A. RAICHUR and BECKY D. RAICHUR

Appeal 2009-0937
Application 09/641,031
Technology Center 2100

Decided:¹ May 6, 2009

Before LEE E. BARRETT, JOSEPH L. DIXON, and
LANCE LEONARD BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-24. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

INVENTION

The invention at issue on appeal provides personalized searching of hypertext transmission protocol pages on the World Wide Web ("WWW"). (Spec. 2.)

ILLUSTRATIVE CLAIM

1. A method of providing personalized search capabilities of hypertext transmission protocol pages, the method comprising the steps of:

a) providing an index server maintaining a permanent but dynamic index to hypertext transmission protocol pages and employing a hierarchical plurality of topic categories whose contents are maintained and updated by the index server;

b) permitting a user to specify any subset of the plurality of topic categories; and

c) adding to a hypertext transmission protocol page controlled by the user link information permitting execution of searches of the index server in any category of the subset but only of categories in the subset.

PRIOR ART

Jacobson	U.S. 5,970,489	Oct. 19, 1999
Kelley	U.S. 6,209,007 B1	Mar. 27, 2001

Fields

U.S. 6,338,059 B1

Jan. 8, 2002

REJECTIONS

Claims 1, 5-9, 13-17, and 21-24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jacobson and Fields. Claims 2-4, 10-12, and 18-20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jacobson, Fields, and Kelley.

ISSUE

The Examiner makes the following findings.

Jacobson discloses a hierarchically structured information space, the information space is a crude representation of what is commonly referred to as the World Wide Web. The structure includes a plurality of hierarchical levels. For instance, at the level 10 are nodes "org", "com", "edu", and "gov". Each of these nodes can be said to constitute the root of an entire region, which includes all of the documents hierarchically below that node. For instance, at one level below the node "com" could be the nodes "xyzcomp", 20, att, 21, and nytimes, 23. Then it can be said that each of these second level nodes define roots of other more particular regions (see Jacobson at Fig.1 and also Col. 2, Lines 30-50.)

(Ans. 12-13.)

Jacobson further discloses REGION-SETs. Region-sets are a set of regions that are related to one another based on a selected criterion. For example, in the web domain a region-set could be constituted by all of those regions corresponding to web pages. Each region in a region-set is specified by giving the name of the root and the region includes the entire set of documents at or hierarchically below that root (i.e. Hierarchical

structure or tree) see Jacobson at Column 3, Lines 1-30.) Thus, Jacobson clearly discloses topic categories.
(*Id.* 11-12.) The Appellants argue that "Jacobson does not disclose a 'hierarchical plurality of topic categories'. Jacobson's region-sets are one-dimensional lists of websites. They have no hierarchy whatsoever." (App. Br. 10.) Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Jacobson teaches a hierarchy of topic categories.

LAW

The question of obviousness is "based on underlying factual determinations including . . . what th[e] prior art teaches explicitly and inherently" *In re Zurko*, 258 F.3d 1379, 1383 (Fed. Cir. 2001) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966); *In re Dembiczak*, 175 F.3d 994, 998 (Fed. Cir. 1999); *In re Napier*, 55 F.3d 610, 613 (Fed. Cir. 1995)).

FINDINGS OF FACT ("FFs")

1. Figure 1 of Jacobson

is a crude representation of what is commonly referred to as the World Wide Web. The structure includes a plurality of hierarchical levels. For instance, at the level 10 are nodes "org", "com", "edu", and "gov". Each of these nodes can be said to constitute the root of an entire region which includes all of the documents hierarchically below that node. For instance, at one level below the node "com" could be the nodes "xyzcomp", 20, att, 21, and nytimes, 23. Then it can be said that each of these second level nodes define roots of other more particular regions.

(Col. 2, ll. 33-45.)

2. Jacobson also states:

A region-set is a set of regions that are related to one another based on a selected criterion. For example, in the web domain a region-set could be constituted by all of those regions corresponding to web pages of telecommunication companies. Such a region-set could be designated "Telecom-Companies". A region-set of this sort would include the root element for telecommunication companies such as AT&T, MCI, etc., namely att.com, mci.com, etc. Alternative region-sets are shown by way of example in FIG. 2. One such region-set might include all computer science research institutions having web pages. Such a list is illustrated as region-set 200 which includes cs.upenn.edu (the Computer Science Department of the University of Pennsylvania), research.att.com (the research group at AT&T), and xyzcomp.com (XYZ Computer Company) as examples.

(Col. 3, ll. 1-15.)

ANALYSIS

As aforementioned, the Examiner reads the claimed "hierarchy" on Jacobson's crude representation of the WWW and the claimed "topic categories" on the reference's region-sets. The crude representation features hierarchical levels. (FF 1.) When the reference's region-sets are designated by names such as "Telecom-Companies" (FF 2), furthermore, we agree with the Examiner that region-sets can constitute topic categories.

Jacobson's region-sets, however, are not arranged as levels of its representation of the WWW. To the contrary, we agree with the Appellants'

aforementioned argument that the region-sets are one-dimensional lists of websites, having no hierarchy. As noted by the Appellants, "in Jacobson, a user can select a 'first region-set identifying regions in the universe satisfying a first criterion . . . a second region-set identifying regions in the universe satisfying a second criterion['] (see Jacobson, Col. 1, lines 64-67)." (Reply Br. 1 (omission in original).) Rather than being constituted by region-sets, moreover, the reference's levels of the representation comprise nodes and regions below nodes. (FF 1.) The Examiner does not allege, let alone show, that the addition of Fields or Kelley cures the aforementioned deficiency of Jacobson.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown error in the Examiner's finding that Jacobson teaches a hierarchy of topic categories.

DECISION

We reverse the rejection of claims 1-24.

REVERSED

msc

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